

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RUSSELL STEWART,)
)
Plaintiffs,) Civ. No. 04-1200-SLR
)
v.)
)
STATE OF DELAWARE,)
DEPARTMENT OF PUBLIC SAFETY, ___
CAPITOL POLICE,)

Defendant_____)

O R D E R

This _____ day of _____, 2005,
the parties having satisfied their obligations under Fed. R. Civ.
P. 26(f), and the court having conducted a pretrial scheduling
conference pursuant to Fed. R. Civ. P. 16 and D. Del. LR 16.2(a)
and (b).

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties have exchanged
the information required by Fed. R. Civ. P. 26(a)(1) and D. Del.
LR 16.2.

2. **Discovery.**

(a) Discovery will be needed on the following
subjects: Capital Police interview process.

(b) All fact discovery shall be commenced in time to
be completed by August 31, 2005.

(1) Document production shall be completed on or
before July 29, 2005.

(2) Maximum of 35 interrogatories by each

party to any other party.

(3) Maximum of 10 requests for admission by each party to any other party.

(4) In the absence of agreement among the parties or by order of the court, no deposition (other than those noticed under Fed. R. Civ. P. 30(b)(6) shall be scheduled prior to the completion of document production.

(5) Maximum of 5 fact depositions by plaintiff(s) and 5 by defendant(s). Each fact deposition limited to a maximum of 3 hours extended by agreement of parties.

(c) Expert discovery shall be commenced in time to be completed by September 30, 2005.

(1) Expert report on issues for which the parties have the burden of proof due September 15, 2005. Rebuttal expert reports due September 30, 2005.

(2) Expert depositions to be limited to a maximum of 4 hours unless extended by agreement of the parties.

(3) All Daubert motions shall be filed on or before November 30, 2005.

(d) Supplementation under Rule 26(e) due December 15, 2005.

(e) **Discovery Disputes.**

(1) The court shall conduct in-person discovery status conferences on _____ from __m. to __m., and on

_____ from ____m. to ____m., the time to be allocated equally among the parties.

(2) The court shall remain available to resolve by telephone conference disputes that arise during the course of a deposition and disputes over the terms of a protective order.

(3) Absent express approval of the court following a discovery conference, no motions pursuant to Fed. R. Civ. P. 37 shall be filed.

(f) **Fact Witnesses to be Called at Trial.** Within one (1) month following the close of expert discovery, each party shall serve on the other parties a list of each fact witness (including any expert witness who is also expected to give fact testimony), who has previously been disclosed during discovery and that it intends to call at trial. Within one (1) month of receipt of such fact witness list, each party shall serve a list of each rebuttal fact witness that it intends to call at trial.

The parties shall have the right to depose any such fact witnesses who have not previously been deposed in this case. Such deposition shall be held within one (1) month after service of the list of rebuttal fact witnesses and shall be limited to twenty (20) hours per side in the aggregate unless extended by agreement of the parties or upon order of the court upon good cause shown.

3. Joinder of other Parties and Amendment of Pleadings.

All motions to join other parties and amend the pleadings shall

be filed on or before _____.

4. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to Magistrate Judge Thyng for the purpose of exploring ADR.

5. **Claim Construction Issue Identification.** If the court does not find that a limited earlier claim construction would be helpful in resolving the case, on _____, the parties shall exchange lists of those claim terms that they believe need construction and their proposed claim construction of those terms. This document will not be filed with the court. Subsequent to exchanging such lists, the parties will meet and confer to prepare a Joint Claim Construction Statement to be submitted pursuant to paragraph 7 below.

6. **Summary Judgment Motions.** All summary judgment motions shall be served and filed with an opening brief on or before _____. Briefing shall be pursuant to D. Del. LR 7.1.2. No summary judgment motion may be filed more than **ten (10)** days from the above date without leave of the court.

7. **Claim Construction.** Issues of claim construction shall be submitted to the court no later than _____, to be considered by the court in conjunction with the summary judgment motions.

8. **Applications by Motion.** Any application to the court shall be by written motion filed with the clerk. **The court will not consider applications and requests submitted by letter or in**

a form other than a motion, absent express approval by the court.

(a) **Any non-dispositive motion should contain the statement required by D. Del. LR 7.1.1.**

(b) No telephone calls shall be made to chambers.

(c) Any party with an **emergency** matter requiring the assistance of the court shall e-mail chambers at:

slr_civil@de.uscourt.gov. The e-mail shall provide a short statement describing the emergency. NO ATTACHMENTS shall be submitted in connection with said e-mails.

9. **Motions in Limine.** **No** motions in limine shall be filed; instead the parties shall be prepared to address their evidentiary issues at the pretrial conference and during trial (before and after the trial day).

10. **Pretrial Conference.** A pretrial conference will be held on _____ at _____ m. in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

11. **Trial.** This matter is scheduled for a [day/week] bench/jury trial commencing on _____ in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial preparations, the parties should plan on being allocated a total number of hours in which to present their respective cases.

United States District Judge